

standards are “job killers.” But just because some special interest groups with highly paid lobbyists keep repeating this absurd mantra, that doesn’t mean it is true. In fact, the opposite is true. Smart safety regulations administered by active, unbiased regulators improve and stabilize our economy. They save workers’ lives, prevent catastrophic accidents, reduce health care costs, and ensure that industries are responsible for their actions instead of dumping the cost of their mistakes on workers and taxpayers.

In addition to the more than 4,000 workers killed on the job every year, which I mentioned, almost 50,000 Americans die every year from occupational illnesses. Let me repeat that. Almost 50,000 Americans die every year from occupational illnesses. More than 4.1 million workers are injured every year. The cost of these injuries and illnesses is enormous. It is estimated at somewhere between \$160 billion to \$318 billion a year for the direct and indirect costs of these injuries. Additional safeguards to prevent these injuries and illnesses, along with strong enforcement of existing laws, would save thousands of lives and thousands of injuries from happening and would save the taxpayers billions of dollars.

To accomplish this, it is clear that our safety laws need to be updated. We have learned much in the 40 years since the Occupational Safety and Health Act was passed, and it is past time to use this knowledge for meaningful reform. For example, we know that whistleblowers are critical to bringing safety problems to light. But these whistleblowers won’t come forward unless the law contains stronger protections against retaliation. Right now, we have stronger protections for financial whistleblowers under the Sarbanes-Oxley law than we do for workers blowing the whistle and trying to save lives. Repeating that, we have stronger whistleblower protections for financial whistleblowers under the existing Sarbanes-Oxley financial reform law than we do for workers who are trying to save lives by blowing the whistle. That is not right. That should be corrected.

We also know that while most responsible companies make worker safety a top priority, there are some unscrupulous employers who cut corners on safety to save costs. Unfortunately, as a past Health, Education, Labor and Pensions Committee report demonstrated, when the negligence of these companies results in workers being killed on the job, these irresponsible companies walk away with a slap on the wrist. OSHA penalties are pitifully low. The average fine for a worker being killed on the job is \$5,000. The average fine for an irresponsible company—and they have to be found as not acting prudently and that they were skimping on safety regulations and not adhering to well-defined safety regulations. But when somebody gets killed, the average fine is \$5,000. What we need is real penalties to ensure that all em-

ployers have real incentives to comply with safety and health laws.

These and other changes in the law are desperately overdue, which is why I have consistently sponsored and supported the Protecting America’s Workers Act. This bill makes commonsense reforms to bring worker laws into the 21st century, with minimal burden on the vast majority of employers that comply with the law. In this Congress, once again, I plan to do everything possible to fight for this important legislation.

In addition to these much-needed updates to the Occupational Safety and Health Act, we also must recognize the key role that vigilant enforcement plays in keeping workers safe. Safety laws don’t work unless there is a legitimate expectation that they will actually be enforced. In recent years, we made real progress in ensuring adequate funding for our workplace safety agencies.

For example, increases in funding for the Mine Safety and Health Administration in recent years have enabled us to meet health inspections for 3 years in a row. MSHA and the Department of Labor have funds to attack a backlog of appeals filed by mine operators. These appeals have helped some operators avoid heightened enforcement actions. OSHA has received funds to restore the number of inspectors that it had over a decade ago.

However, we in the Senate have recently had to fend off efforts to roll back this progress. H.R. 1, the Republican fiscal year 2011 appropriations bill, cut the Occupational Safety and Health Administration by 18 percent—18 percent. This would have paralyzed the agency and allowed unscrupulous employers to ignore worker safety and health protections.

This bill would have allowed the backlog of mine safety and health citations to increase. It would have prevented MSHA from moving forward on improvements it has initiated in mine emergency response and other areas. Thankfully, Senate Democrats and the President are standing firm and refusing to cut workplace safety funding to finance tax breaks for millionaires and billionaires.

As we continue the budget debates, we should keep in mind the budget reflects moral choices about the kind of country and society we want to be. Personally, I am committed to upholding the bipartisan values reflected in the passage of the Occupational Safety and Health Act. All Americans have the right to a safe workplace.

While we have made tremendous progress, as I pointed out, in the last 40 years under OSHA, there is much more work to be done. Over 4,000 lives lost each year is still unacceptably high. We owe the 4,340 workers we lost just last year our best efforts to ensure that such tragic losses are dramatically reduced. We should not rest until all of our fathers, mothers, brothers, sisters, families can go to work each day know-

ing they can come home safely each night.

Once again, on April 28, we commemorate Workers Memorial Day, and we renew our commitment to making sure workers all across America have the protections of the Occupational Safety and Health Act, that we provide the funding for these agencies to make sure the law is enforced, and to make sure we reassure every working American that they have a right—they have a right—to a safe workplace.

I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAX BENEFITS AND BURDENS

Mr. GRASSLEY. Madam President, I have had the privilege over most of my tenure in the Senate of serving on the Finance Committee and working with a good Senate leader such as Senator BAUCUS. I now have the privilege of serving on the committee but not as ranking member or chairman, just as a member. I compliment Senator BAUCUS for his leadership on this whole business of tax reform and for holding the hearings he is holding.

Today, a very important hearing is being held on the question of is the distribution of tax burdens and benefits equitable. The topic of today’s hearing—whether the distribution of tax benefits and burdens is equitable—is very appropriate and is a very important topic. However, I would argue there is a more important question we should be debating, and we should be answering this question: What is the purpose of the Federal income tax? We can’t talk about whether taxpayers are paying their fair share if we don’t know why we want them paying taxes in the first place.

We are in a situation now where people are talking about increasing taxes on higher income people because, supposedly, they can afford it. Probably they can afford it, but I get sick and tired of the demagoguery that goes on in Washington not just by Members of Congress but by too many people who think higher income people ought to be paying more taxes. According to the Joint Committee on Taxation’s latest analysis, 49 percent of households are paying 100 percent of the taxes coming in to the Federal Government, while 51 percent are not paying any income tax whatsoever.

How high do taxes have to go to satisfy the appetite of people in this Congress to spend money? In particular, how high do marginal tax rates have to go to satisfy those clamoring for higher taxes from the wealthiest; how high

to satisfy you? And you know who you are.

There is an article by Investors Business Daily to which I want to refer. According to this article—not talking about the taxation of a certain amount of income—if the government confiscated all the income of the people earning \$250,000 a year or more, that money would fund the Federal Government today for a mere 140 days. Do you know what you would have? You wouldn't have those people trying to maximize their income because why would they maximize it if the government was going to confiscate it.

So that is a very basic question: How high do taxes have to go to satisfy the appetite of people in this Congress to spend money?

Funding the government should be one of if not the primary goal of our income tax laws. Of course, that leaves out this whole business of whether the Federal Government's purpose is the purpose of redistributing income.

Note here that I am specifically focusing on the income tax. This is because payroll taxes are not used to fund the government. Social Security and Medicare taxes are, in fact, insurance programs. Because they are insurance programs, the taxes they pay are insurance premiums because individuals who pay them expect to benefit when they reach a certain age.

It is clear some believe the Tax Code should be used to reduce the growing income disparity between the lowest and highest income quintiles. This assumes a key objective of the Federal Government, through the Federal income tax laws, should be to ensure that income is distributed equally throughout our citizenry. In other words, these folks actually believe the Federal Government is the best judge of how income should be spent. That is not what our Founding Fathers or original authors of the tax laws intended.

In addition to considering the purpose of tax revenue, we ought to, in fact, have some principles of taxation by which we abide. These principles of taxation would be a much stronger foundation than the day-to-day decisions about whether we ought to raise taxes on a certain number of people. So I abide by the principle that has been a fact of our tax laws for 50 years—that an average of 18.2 percent of the GDP of this country is good enough for what the government needs to spend.

Now, I say that because with a 50-year average it hasn't been harmful to the economy, as we have seen this country expand and expand and expand economically over that period of time.

Quite frankly, it ought to be clear that 18.2 percent of the GDP of this country coming in for us to spend is not a level of expenditures that taxpayers have revolted against. So we take in that 18.2 percent for 535 of us to decide how to spend, and the other 82 percent is in the pockets of the taxpayers to decide how to spend or to save. If 535 Members of Congress were

to decide how to divide up the resources of this country, we would not have the economic growth that we have had in our economy. With 137 million taxpayers deciding how to spend or how to save, and how much of each, the economic growth of this country is enhanced tremendously because of the dynamics of the free-market system. If we were going to go the greater route of increasing that 18 percent very dramatically, we would be moving increasingly toward the Europeanizing of our economy, and I think that would be very bad.

In evaluating whether people are paying their fair share, experts frequently look at whether a proposal improves the progressivity of our tax system. Critics of lower tax rates continue to attempt to use distribution tables to show that tax relief proposals disproportionately benefit the upper income. We keep hearing that the rich are getting richer while the poor are getting poorer. This is not an intellectually honest statement because it implies that those who are poor stay poor throughout their lifetimes, and those who are rich stay rich throughout their lifetimes. And that is just not the case.

To illustrate this point, I quote from a 2007 report from the Department of the Treasury titled, "Income Mobility in the U.S. from 1996 to 2005." I quote the key findings:

There was considerable income mobility of individuals in the U.S. economy during 1996 through 2005 period as over half of the taxpayers moved to a different income quintile over this period.

Roughly half of taxpayers who began in the bottom income quintile in 1996 moved up to a higher income group by 2005.

Among those with the very highest incomes in 1996—the top 1/100 of 1 percent—only 25 percent remained in this group in 2005. Moreover, the median real income of these taxpayers declined over this period.

The degree of mobility among income groups is unchanged from the prior decade.

The prior decade meaning the prior study by the Treasury Department from 1987 through 1996.

Economic growth resulted in rising incomes for most taxpayers for the period of 1996 to 2005. Median income of all taxpayers increased by 24 percent after adjusting for inflation. The real incomes of two-thirds of all taxpayers increased over this period. In addition, the median incomes of those initially in the lower income groups increased more than the median incomes of those initially in the higher income groups.

Therefore, whoever is saying—and we hear it every day on the floor of the Senate—that once rich, Americans stay rich; and once poor, they stay poor, is purely mistaken. The Internal Revenue Service data supports this analysis. A report on the 400 tax returns with the highest income reported over 14 years shows that in any given year, on average, about 40 percent of the returns were filed by taxpayers who are not in any of the other 14 years.

In other words, 40 percent of those people who are in the highest brackets are not in the highest brackets ever in

that 14-year period of time. So once rich, not always rich.

I welcome this data on this important matter for one simple reason: It sheds light on what America is all about: vast opportunities and income mobility. Built by immigrants from all over the world, our country truly provides unique opportunities for everyone. These opportunities include better education, health care services, and financial security. But, most importantly, our country provides people with the freedom to obtain the necessary skills to climb the economic ladder and live better lives.

We are a free nation. We are a mobile nation. We are a nation of hard-working, innovative, skilled, and resilient people who like to take risks when necessary in order to succeed. Bottom line, we have an obligation as lawmakers to incorporate these fundamental principles into our tax system instead of just asking: Are the rich paying enough?

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent to speak for up to 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF JACK MCCONNELL

Mr. CORNYN. Madam President, I rise to speak on a nomination that is pending before the Senate, and I do so with some degree of trepidation because, as someone who has been a member of the legal profession for about 30-plus years, I believe it is imperative that I voice my strong concerns and, indeed, my objections to the nomination of Jack McConnell to become a U.S. district judge prior to the vote we will have tomorrow morning on a cloture vote.

The reason I was attracted, like so many others, I think, to law school and the legal profession was because of the majesty of the notion of the rule of law, its importance to our democracy, the responsibilities that lawyers owe not just to themselves, to enrich themselves, but to their clients—the fiduciary duty that a lawyer has to represent a client. Then, of course, the ethical standards, which some might scoff at but which actually work pretty well. They keep lawyers, for the most part, accountable to the high ethical standards imposed by the legal profession.

Unfortunately, and I am sorry to have to say this, but the hard truth is Mr. McConnell's record—which I will describe in a moment—is one of not upholding the rule of law but perverting the rule of law, ignoring the responsibilities he had to his client, and manipulating those ethical standards in order to enrich himself and his law partners.

First, let me just say that Mr. McConnell, when he came before the